

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE NORTHERN DISTRICT OF ALABAMA
SOUTHERN DIVISION

IN RE:)
)
THE NINETEENTH STREET)
INVESTMENTS, INC.)
)
DEBTOR) CASE NO.: 11-04549-113137
) Chapter 7
)

MOTION FOR RELIEF FROM AUTOMATIC STAY

Comes now creditor Susan Green, individually and as Next Friend of Jennifer Vickery, and files this Motion for Relief from Automatic Stay in the above-entitled Chapter 7 proceeding. As grounds, movant shows as follows:

1. Debtor, The Nineteenth Street Investments, Inc., is a Defendant in three pending state court wrongful death and personal injury actions. Movant Susan Green is the named Plaintiff in one such proceeding. The cases are "Dram Shop" cases arising out of wrongful death and personal injuries suffered in a motor vehicle accident that occurred following the debtor's alleged illegal sale of alcoholic beverages to an under-age driver. Susan Green's minor child was injured along with another passenger. One passenger was killed in the accident. The cases are:

Sharon Robertson, individually and as personal representative of the Estate of Timothy Andrew Robertson v. Brittany Caffee, et al.

In the Circuit Court of Jefferson County, Bessemer Division, Alabama
CV-2007-000633-ERV

Susan Green, et al. v. Brittany Caffee, et al.

In the Circuit Court of Jefferson County, Bessemer Division, Alabama
CV-2007-000783-ERV

Tisha Owens and Bobby Waldrop, as parents and next friend of Michael Waldrop, a minor v. Brittany Caffee. et al.

In the Circuit Court of Jefferson County, Bessemer Division, Alabama
CY-2007-0 00797

The facts and circumstances of Movant's case are set out in the Fact Summary attached as Exhibit A.

2. The cases have been pending since 2007 and were consolidated for discovery and trial. The trial of the actions was scheduled to begin September 19, 2011, before the Honorable Eugene Verin. The Petition herein was filed September 9, 2011.

3. Co-defendants in the pending state court cases are: The Nineteenth Street Investments, Inc. (debtor); Ibrahim Sabbah (identified in the bankruptcy petition hereunder as the sole shareholder, officer and director of debtor); and Sabbah Brothers Enterprises, Inc. (Ibrahim Sabbah is also the sole shareholder, officer and director of Sabbah Brothers Enterprises, Inc.).
4. Plaintiffs have alleged in the state court action that Ibrahim Sabbah and Sabbah Brothers Enterprises, Inc. are alter-egos of debtor, The Nineteenth Street Investments, Inc. and are equally responsible for the torts of debtor. The State trial court determined, in its Order of March 24, 2011, that it would try the underlying tort issues against Defendant, The Nineteenth Street Investments, Inc., and, after entry of any judgment, determine whether the alter-ego co-defendants are also Liable.
5. Debtor has maintained that it has no insurance coverage for any liquor liability claims made by the Plaintiffs in the underlying action. Upon information and belief, however, a Nationwide liquor liability policy was issued to Co-Defendant Sabbah Brothers Enterprises, inc., insuring the premises operated by debtor.
6. Debtor lists as assets a contingent claim described as "Right to sue insurance agent for messing up the name on the insurance liability policy." (See line item 21, Schedule B of the Petition filed herein). Debtor also lists "other business insurance policies" as an asset (See line 35, Schedule B). It is presumed that this refers to potential claims under the Nationwide liquor liability policy insuring Sabbah Brothers Enterprises, Inc.
7. Plaintiff believes that potential breach of contract and/or bad faith claims against Nationwide might be additional assets for debtor.
8. The value of the claims in the underlying state court law suits cannot be Determined until a judgment is rendered.
9. The state circuit court has been involved in litigation of this action since 2007. That Court is most familiar with the issues and the parties involved, and is the forum best suited to resolve the disputes. Since this Bankruptcy Court has no jurisdiction to try wrongful death or personal injury claims, the state circuit court is the best forum for resolution of these issues.

WHEREFORE, PREMISES CONSIDERED, Plaintiff prays that this Court provide relief from the automatic stay entered hereunder and allow the trial to go forward for the purpose of fixing the debtor's contingent liabilities in these underlying cases.



RALPH BOHANAN, JR. (BOH-002)
Attorney for Movant Susan Green

OF COUNSEL:

BOHANAN & ASSOCIATES, P.C.
One Perimeter Park South
Suite 315 South
Birmingham, Alabama 35243
Phone: (205) 977-2200
Facsimile: (205) 977-2555

CERTIFICATE OF SERVICE

I do hereby certify that on the 29th day of May, 2012, a true and correct copy of the foregoing pleading was served on all counsel of record via electronic filing or by placing a copy of same in the United States Mail, First Class Postage Prepaid, to:

BRITTANY CAFFEE
Edward D. Tumlin, Esq.
P.O. Box 36683
Birmingham, AL 35236

Ralph D. Gaines, III, Esq.
GAINES, WOLTER & KINNEY, P.C.
3500 Blue Lake Drive, Suite 425
Birmingham, AL 35243

Kori L. Clement, Esq.
Hare, Clement & Duck, P.C.
505 North 20th Street
Suite 1010, Financial Center
Birmingham, AL 35203

Staci Cornelius, Esq.
Haskell, Slaughter, Young & rediker, LLC
1400 Park Place Tower
2001 Park Place North
Birmingham, AL 35203

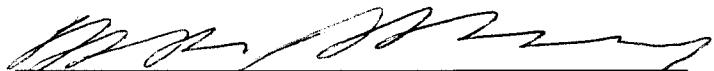
Patrick M. Lavette, Esq.
Davenport, Lavette & Cleckler, P.C.
P.O. Box 360186
Birmingham, AL 35236

Curtis Gordon, Esq.
Gordon & Latham
2105 Third Avenue North
Birmingham, AL 35203

Don McKenna, Esq.
Hare, Wynn, Newell & Newton
The Massey Building
20258 3rd Avenue North
Birmingham, AL 35203

The Nineteenth Street Investments, Inc.
c/o Andrew N. Laplante, Esq.
1604 3rd Avenue North
Bessemer, AL 35020

Andre' M. Toffel, Esq.
Andre' M. Toffel, PC
1929 3rd Avenue North, Suite 4
4th Floor Farley Building
Birmingham, AL 35203



OF COUNSEL